

511 85-0868

Office of Legislative Liaison
Routing Slip

STAT

TO:	ACTION	INFO
1. D/OLL		X
3. DD/OLL		X
3. Admin Officer		
4. Liaison	X	X
5. Legislation	X	
6.		X
7.		X
8.		
9.		
10.		

STAT

SUSPENSE

22 March
Date

Action Officer:

STAT

Remarks:

STAT

15 March 85
Name/Date

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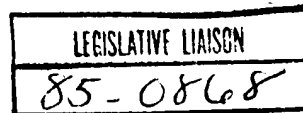
United States Senate

SELECT COMMITTEE ON INTELLIGENCE
WASHINGTON, DC 20510

ROBERT DOLE, KANSAS, EX OFFICIO
ROBERT C. BYRD, WEST VIRGINIA, EX OFFICIO

85-0820

March 11, 1985



[Redacted]
Office of General Counsel
Central Intelligence Agency
Washington, D.C. 20505

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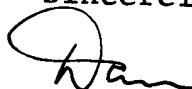
Dear [Redacted]

STAT

As I mentioned to you a few days ago, staff on the Judiciary Committee have referred me the enclosed bill which would prohibit federal officials from tape-recording their own official telephone calls. The staff is concerned to be sure that the exemptions included for intelligence activities are sufficient to safeguard these activities from undue limitation under the bill.

I would appreciate having your office take a look at this bill to see if lawful and authorized foreign intelligence or counterintelligence operations could be affected in any way. Thank you for your cooperation.

Sincerely,



Daniel P. Finn
Minority Counsel

DPF/sm
Enclosure

029820.362

S.I.C.

AMENDMENT NO. ____

Calendar No. ____

Purpose: To prohibit Government employees from secretly taping conversations with others.

IN THE SENATE OF THE UNITED STATES--98th Cong., 2d Sess.

S. ____

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

Amendment intended to be proposed by Mr. Metzenbaum

Viz:

1 At the appropriate place in the bill, insert the
2 following:
3 Sec. . (a) Chapter 119 of title 18, United States
4 Code, is amended by adding after section 2511 the following
5 new section:
6 ``§ 2511A. Prohibition on taperecording by Government
7 officials
8 ``(a) No official, employee, or agent of the United
9 States or of any department or agency thereof, while acting
10 in his or her official capacity, shall record or authorize
11 another person to record a telephone communication to which
12 such person is a party, notwithstanding the provisions of
13 paragraphs (c) and (d) of section 2511, and subject to
14 subsection (b) of this section. Anyone who violates this
15 section shall be fined not more than \$1,000 or imprisoned not
16 more than six months, or both.
17 ``(b) Subsection (a) shall not apply if--
18 ``(1) all parties to the communication have given
19 prior consent to such interception;
20 ``(2) the person recording the communication is--
21 ``(A) an investigative, law enforcement,
22 security, foreign intelligence, or
23 counterintelligence officer acting within the normal

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1 course of his or her employment; or

2 "(B) performing a law enforcement, security,
3 foreign intelligence, or counterintelligence function
4 under the direction and control of an officer
5 described in subparagraph (A);

6 "(3) the communication constitutes a tortious or
7 criminal act or threatens to perform a tortious or
8 criminal act;

9 "(4) the recording is performed by a handicapped
10 employee, provided a physician has certified (and the
11 head of the agency or designee concurs) that the employee
12 is physically handicapped and the head of the agency or
13 designee determines that the use of a recording device is
14 required to perform the duties of the position;

15 "(5) the person recording the communication is
16 acting in accordance with--

17 "(A) in the case of an official, employee, or
18 agent of the Congress of the United States, rules
19 approved by each house of Congress, as applicable;

20 "(B) in the case of an official, employee, or
21 agent of the Judiciary of the United States, rules
22 approved by the Judicial Conference; and

23 "(C) in the case of all other officials,
24 employees, or agents of the United States--

25 "(1) regulations approved by the Attorney
26 General; or

27 "(11) guidelines approved by the Attorney
28 General, if the Attorney General determines that
29 there is a compelling governmental interest in
30 not making the guidelines public.

31 Determinations to allow the recording of a communication
32 under clause (5), shall take into account and balance the
33 right to privacy of the parties to the conversation and
34 the interest of the Government in breaching such

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1 privacy.''.

2 (b) The table of sections for chapter 119 of title 18,
3 United States Code, is amended by adding immediately after the
4 item for section 2511 the following:

''2511A. Prohibition on taperecording by Government
officials.''.

5 (c) The amendments made by this Act shall be effective 60
6 days after the date of enactment of this Act.